



SO1Z8

Kunkel, Mark

From: Kunkel, Mark
Sent: Tuesday, September 18, 2007 3:28 PM
To: Lovell, David; Nilsestuen, Joel; Anderson, John; Stolzenberg, John
Subject: RE: Questions re. Illinois model

The following are my preliminary questions about the proposal that is based on the Illinois law (the proposal). (I've included Leg. Council's questions below my questions so that all of the preliminary questions are in one document.)

Perhaps we should meet to discuss these issues? Let me know how you want to proceed.

My questions:

1. It looks like you want to retain the authority of municipalities over "interim cable operators," which are companies that elect to retain their municipally granted franchises. Is that correct? If so, it appears that, if a company decides that it wants to be an interim cable operator, the municipality must renew the franchises periodically for the company to continue to do business. Also, none of the proposal's requirements that apply to a "holder" (which is defined as a company that receives an authorization from the PSC) would apply to an interim cable operator. The requirements that apply to a holder relate to PEG access, emergency alert system, the franchise fee, the fee for PEG support, audits, local government authority over rights-of-way, build-outs, and enforcement. None of the foregoing would apply to an interim cable operator. However, an interim cable operator would be subject to the consumer service and privacy protection requirements, because those requirements apply to companies that provide cable or video service, rather than apply only to "holders." Is that okay?
2. As noted above, the right-of-way requirements that apply to a company will depend on whether that company is an interim cable operator or a "holder." Is that okay, or should one set of requirements apply to everybody?
3. Who should enforce the proposal's requirements? Under the proposal, the PSC issues authorizations to holders, but DOJ enforces the proposal's other requirements. Under Wisconsin law, DOJ does go to court to enforce requirements administered by the PSC. However, DATCP, rather the DOJ, generally has authority over consumer protection issues. Should DATCP, rather than DOJ, enforce the consumer service and privacy protection requirements of the proposal? *DATCP*
4. The proposal also gives dual authority to local governments and DOJ to enforce the consumer protection and privacy requirements. Such dual authority exists under Wisconsin law, but it is rare. If you want to allow local governments to enforce the requirements, I'm assuming you want any forfeitures that are paid to the local government pursuant to local enforcement to go to the local government, and any forfeitures that result from DOJ enforcement to go to the state treasury, is that correct?
5. The proposal creates a consumer utilities unit in DOJ that has authority to intervene in any matter related to electric, natural gas, water or sewer service. Interestingly, the proposal does not allow intervention in matters relating to cable or video service. ("Cable or video" service is defined for that part of the proposal, but the term is mentioned only in the legislative findings for that portion of the proposal.) Do you want to create a consumer utilities unit in DOJ with the same limitation on intervening in matters relating to cable or video? If so, I'm assuming you would be creating something comparable to the Public Intervenor, which, under former law, was authorized to intervene in certain environmental matters. *not included*
6. Under the proposal, state issued franchises expire when the Illinois act sunsets. How do you want to deal with franchise expiration? Also, there are no application fees in the proposal. Do you want to allow the PSC to charge a fee to recoup the cost of administering the proposal? *6 year and add to 196.85*
7. As I draft the substitute amendment, I'm certain other issues will arise. (For example, I don't think that the proposal does uses consistent terminology in referring to the state issued franchise or authorization.) Hopefully, I can address those issues in a drafter's note.

From: Lovell, David
Sent: Tuesday, September 04, 2007 2:09 PM
To: Nilsestuen, Joel; Anderson, John; Kunkel, Mark
Subject: Questions re. Illinois model

Joel, John, & Mark,

I have reviewed the Illinois legislation again, with an eye to questions that will need to be resolved in adapting it to Wisconsin law. The first few are pretty detailed, but the rest are at more of a big-picture level. Here they are:

Definition of "footprint" -- what are "national map accuracy standards"?

Definition of "household" -- cf. 16.27 (1) (c) "Household" means any individual or group of individuals who are living together as one economic unit for whom residential energy is customarily purchased in common or who make undesignated payments for energy in the form of rent." This seems like a better definition to me. *use 16.27(1)(c)*

Definition of "low income household" -- what does "average" mean? should this be "aggregate"? *use WI screen*

The term "**basic local exchange service area**" isn't used anywhere in the draft, except in its own definition; the term used is "**telecommunications service area**," which is also defined.

Confidentiality -- should the language in the draft be replaced with a reference to s. 196.135? or just omitted? If not, then what provision of "WI Adm. Procedures Act" (ch. 227) should be applied? should it be a contested case? Replace reference to "FOIA" with s. 19.35? *→ X-ref to 196.135*

Sunset and term of state franchise -- Illinois law took effect June 30, 2007, and sunsets on Oct. 1, 2013, so franchises are valid for ~ 6 years. Should the WI bill have a sunset? Should there be a 6-year term on state franchises?

PEG -- enforcement -- court of competent jurisdiction has exclusive auth. to enforce -- what does this mean? How does it differ from current WI law? Who can bring an action to enforce --municipality? PSC? DATCP?

Emergency Alert System -- find FCC cite

But SPC auth. to accept of parts of PEG

Rights-of-way -- put language of draft into ch. 66? Leave ss. 66.0425, 182.017, and 196.58 unchanged, (on the theory that any conflicts will be resolved by applying the more specific and more recently-created language of the draft to video service providers)? *to ext new entrants (sbt auth) must comply w/ current law*

Large telcos -- SB 107: < 500,000; and > 500,000 -- Illinois law: < 300,000; 300,000 - 1,000,000; and >1,000,000 -- so, what categories should we use, and what requirements should we apply? *use WI law*

Broadband build out -- same requirement? Pay to USF, for use limited to broadband? Or create a grant program based on 2005 Act 479? Or ... ??? *If current law, apply to new entrants*

Interference With Service to Tenants -- this is in the Illinois law, but the drafting instructions omit it -- should the draft include this, to be truly the same as Illinois law, or exclude it, as in the drafting instructions?

Enforcement -- assign to AG, as in drafting instructions? Or to PSC, which generally enforces the laws it implements. If the latter, under what model? Investigation and PSC order, which is enforceable in court (see ss. 196.26-196.30)? Or investigation and referral to AG for prosecution (see s. 196.44)? Or direct authority of PSC to commence proceedings (see s. 196.219 (4))?

Also, though I have not studied this, it appears likely that there may be aspects of the Illinois enforcement provisions that don't mesh well with Wisconsin law enforcement procedures, etc.

Consumer Protection -- see Mark's questions in his August 30 e-mail -- should the draft create an entity in DOJ such as the Consumer Utility Unit created by the Illinois law? Or should this function go to DATCP as part of its consumer protection program?

With regard to the 2 preceding items -- I suggest that you deviate from the Illinois model to the extent that model creates new administrative structures or follows patterns that are not the traditional way in which Wisconsin has organized its government. To translate, that would mean using one of the existing forms of PSC enforcement and putting consumer protection in DATCP, again relying on existing enforcement mechanisms. I think this could be done and still honestly represent the draft as being the Illinois law put into the Wisconsin Statutes.

The same applies with regard to my comments on confidentiality and PEG enforcement, and probably others, as well.

Sections 11 & 12 -- these appear to be either irrellevent or inapppropriate for the WI Stats. -- omit?

New Municipal Franchises -- It appers that the draft needs to retain current s. 66.0419 to allow renewal of municipal franchises, amended in the way that the Illinois law amends the Illinois Municipal Code and Counties Code, to require that new franchises incorporate or conform to the statute regarding state wide franchises.

Let me know when you want to talk about these issues/questions.

David

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IS something comparable
needed

**COMPARISON OF WISCONSIN AND ILLINOIS LEGISLATION
RELATING TO STATEWIDE FRANCHISING FOR
VIDEO SERVICE PROVIDERS**

SUBJECT	ENGROSSED 2007 WISCONSIN ASSEMBLY BILL 207 (AB 207)	ILLINOIS ACT 095-0009 (THE ACT)
FINDINGS	The bill contains legislative findings, including the following statement: "This section is an enactment of statewide concern for the purpose of providing uniform regulation of video service that promotes investment in communications and video infrastructures and the continued development of the state's video service marketplace within a framework that is fair and equitable to all providers."	The Act contains legislative findings, including the following statement: "The State authorization process and uniform standards and procedures in this Article are intended to enable rapid and widespread entry by competitive providers which will bring to Illinois consumers the benefits of video competition including providing consumers with more choices, lower prices, higher speed and more advanced Internet access, more diverse and varied views, public information, education, and entertainment programming, and will bring to this State and its local units of government the benefits of new infrastructure investments, job growth, and innovation in broadband and Internet protocol technology and deployment."
FRANCHISES	Franchising Authority	<p>Department of Financial Institutions (DFI).</p> <p>Illinois Commerce Commission (ICC), or municipal or county government, at the option of the video service provider.</p> <p>"[S]ubject to the laws of the State and the ordinances, rules and regulations of the local units of government," a franchise grants authority to:</p> <ul style="list-style-type: none"> • provide cable service or video service in the service area identified in the application; and • use, occupy, and construct facilities in the public rights-of-way for the delivery of cable service or video service.

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Incumbent Cable Operator and Existing Franchise	An incumbent may, at its discretion, either: <ul style="list-style-type: none"> • terminate existing franchise and obtain statewide franchise; or • operate as an "interim cable operator" until expiration of existing franchise. A municipality may not renew a franchise.	Same options as in AB 207, plus option to renew municipal franchise upon its expiration. Requires that existing and future municipal franchises conform to the customer service and privacy standards, protections, and penalties established in the act.
Application	An application must include all of the following information: <ul style="list-style-type: none"> • address and telephone number of principal office; • names of principal officers and representatives; • description of the area of the state in which the applicant intends to provide video service; • the date on which the applicant intends to begin providing video service; • a description of the services that the application proposes to provide; and an affidavit affirming all of the following: <ul style="list-style-type: none"> • that the applicant has filed or will timely file with the Federal Communications Commission all forms required in advance of offering video service; • that the applicant agrees to comply with all state and federal regulations; • that the applicant is legally, financially, and technically qualified to provide video service. 	An application must include essentially the same information and affidavit as required by AB 207, plus: <ul style="list-style-type: none"> • a certification that the applicant has delivered a copy of the application to all affected local units of government; • the expected date of commencement of service; and • the applicant's general standards related to customer service, as described below.

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Confidential or Proprietary Information	No provision.	The applicant may designate information in its application or subsequent reports as confidential or proprietary; such information is treated in the manner provided for such information under the Illinois Public Utilities Act.
Review and Approval of Application	<p>Within 15 days of receiving an application, DFI must determine completeness of application.</p> <p>Within 15 days of receiving a complete application, DFI must determine if the applicant is legally, financially, and technically qualified to provide video service. If the DFI makes a positive determination, it must issue the applicant a franchise; if it fails to make a determination, the applicant is considered to have a franchise.</p> <p>Large telecommunications video service providers¹ and qualified cable operators² are presumed to be legally, financially, and technically qualified to provide video service.</p> <p>DFI must promulgate rules for determining whether an applicant is legally, financially, and technically qualified to provide video service.</p>	<p>Essentially the same as AB 207, except that:</p> <ul style="list-style-type: none"> • the ICC has 30 days, rather than 15 days, to respond to a complete application; and • there is no presumption that large telecommunications video service providers and qualified cable operators are qualified. <p>AB 207 requires DFI to determine that an applicant is qualified, while the Act requires the ICC, in determining that an application is complete, to find that the application includes “adequate assurance” that the applicant is qualified. This comparison assumes that those functions are equivalent.</p>

¹ “Large telecommunications video service provider” is a telecommunications video service provider that, on January 1, 2007, had more than 500,000 basic local exchange access lines in the state or an affiliate of such a telecommunications video service provider (i.e., AT&T Wisconsin).

² “Qualified cable operator” is (a) a cable operator that has been providing cable service in the state for at least three years prior to applying for a video service franchise that has never had a cable franchise revoked by the municipality; (b) an affiliate of such a cable operator; or (c) a cable operator that, on the date that it applies for a video service franchise, individually or together with its affiliates or parent company, is one of the 10 largest cable operators in the United States, as determined by standards in the bill.

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Modification of Franchise	If there is a change in the information contained in the application, the video service provider must notify the DFI within 10 business days. If a video service provider intends to increase its service area, it must reapply for a modified franchise.	A video service provider may change its video service area footprint by providing notice to the ICC and affected local units of government in the same manner as the original franchise application. The Act is silent with regard to changes in other information contained in an application.
Transfer of Franchise	If a video service provider transfers its franchise to another entity, that entity must apply for a franchise within 15 days of the transfer; it may provide service while waiting to receive the franchise.	Essentially the same as AB 207, plus: <ul style="list-style-type: none"> • the successor-in-interest must not be in violation of the Act or of any federal, state, or local law, ordinance, rule, or regulation. • a local government or the Attorney General may bring an action court to bar the transfer if there is any of the following: <ul style="list-style-type: none"> ○ a material and continuing breach of the Act by the franchise holder; ○ a pattern of noncompliance with customer service standards by the potential successor-in-interest; or ○ the insolvency of the potential successor-in-interest. • a transfer in violation of these requirements is subject to three times the applicable penalties.
Termination of Franchise	Video service provider may terminate franchise upon 30 days' advance notice to DFI.	Video service provider may terminate franchise upon notice to the ICC and affected local units of government.
Expiration of Franchise	Franchise does not expire.	Franchise expires when the Act sunsets, October 1, 2013.

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Revocation of Franchise	The DFI may revoke a video service franchise if “the [DFI] determines that the video service provider has repeatedly failed to substantially meet a material requirement imposed upon it by [state law] and the [DFI] has not otherwise acquiesced in such noncompliance through a waiver.”	As part of an enforcement action brought by the Attorney General, described below, a video service provider’s franchise may be suspended or revoked if it fails to achieve compliance in a reasonable time.
Application Fees	Specifies extensive administrative procedures for conduct of a revocation hearing. <ul style="list-style-type: none"> • \$2,000 for initial application. • \$100 for updating of some categories of application information. 	None.
NOTICES RELATED TO COMMENCEMENT OF VIDEO SERVICE	NOTICES RELATED TO COMMENCEMENT OF VIDEO SERVICE	NOTICES RELATED TO COMMENCEMENT OF VIDEO SERVICE
Notices to Municipality	Video service provider must provide to affected municipalities: <ul style="list-style-type: none"> • copies of franchise applications and modifications. • 10 business days’ advance notice prior to commencing service. 	A video service provider must give a municipality 10 days’ advance notice before commencing service within the municipality.
Notices by Municipality	Municipality must notify video service provider of: <ul style="list-style-type: none"> • the franchise fees it receives from the incumbent cable provider. • the number of PEG channels it receives from the incumbent cable provider. 	A municipality must submit to a video service provider: <ul style="list-style-type: none"> • the ordinance it adopts establishing the video service provider fee; and • the audit requirements it imposes on incumbent cable service providers.
VIDEO SERVICE PROVIDER FEE	VIDEO SERVICE PROVIDER FEE	VIDEO SERVICE PROVIDER FEE
Requirement and Amount	A video service provider must pay a fee to a municipality in which it provides service, as a percentage of its gross revenues earned in that municipality, which is the least of: <ul style="list-style-type: none"> • 5%. • if no incumbent cable operator paid a fee 	A video service provider must pay a fee to a municipality in which it provides service. The municipality must establish the fee by ordinance. <p>The amount of the fee shall be either:</p> <ul style="list-style-type: none"> • 5% of gross revenues; or

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	based on revenues prior to the effective date, a percentage specified by the municipality, up to 5%. <ul style="list-style-type: none"> • if an incumbent did pay such a fee, the percentage paid by the incumbent. • if more than one incumbent paid such a fee, the lowest percentage. 	<ul style="list-style-type: none"> • the amount paid by an incumbent cable operator.
Definition of “Gross Receipts”	<p>“Gross receipts” means “all revenues received by and paid to a video service provider by subscribers residing within a municipality for video service, or received from advertisers....”</p> <p>“Gross receipts” <i>includes</i>:</p> <ul style="list-style-type: none"> • recurring charges for video service; • event-based charges (e.g., pay-per-view); • equipment rental (e.g., set-top boxes); • service charges (for, e.g., activation, installation, repair, and maintenance); • revenues received from the provision of home shopping or similar programming; • revenues from advertising; and • administrative charges. <p>“Gross receipts” <i>excludes</i>:</p> <ul style="list-style-type: none"> • discounts, refunds, and other price adjustments; • uncollectible fees; • late payment charges; • maintenance charges; • amounts billed to recover taxes, fees, surcharges, or assessments; • revenue from the sale of certain capital assets 	<p>“Gross receipts” means “all consideration of any kind or nature, including, without limitation, cash, credit, property, and in-kind contributions received by the [video service provider] for the operation of a cable or video system to provide cable service or video service within the [video service provider’s video service area] local unit of government’s jurisdiction.”</p> <p>“Gross receipts” <i>includes</i> essentially the same items included in that definition in AB 207, plus:</p> <ul style="list-style-type: none"> • late payment fees or charges, insufficient funds check charges, and other charges assessed to recover the costs of collecting delinquent payments; • in the case of a video service that is bundled or integrated functionally with other services, capabilities, or applications, the portion of the video service provider’s revenue attributable to the other services, capabilities, or applications, unless the video service provider can reasonably identify the division or exclusion of the revenue; and • the amount of the video service provider fee, itself.

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	<ul style="list-style-type: none"> or surplus equipment; charges for nonvideo services that are bundled with video services; and reimbursement by programmers of marketing costs actually incurred by the video service provider. 	<p>“Gross receipts” <i>excludes</i>:</p> <ul style="list-style-type: none"> • discounts, refunds, and other price adjustments; • uncollectible fees; • regardless of whether the services are bundled, packaged, or functionally integrated with video service, any revenues received from services not classified as video service, including specific listed items; • the sale of video services for resale in which the purchaser is required to pay the video service provider fee to the municipality; • taxes, fees, surcharges, or assessments; • security deposits; and • amounts paid by subscribers to home shopping or similar vendors for merchandise sold through any home shopping channel.
Payment	A video service provider shall pay the fee quarterly, not later than 45 days after close of calendar quarter.	<p>The video service provider's duty to pay the fee commences in the latter of:</p> <ul style="list-style-type: none"> • the quarter in which it commences service. • the quarter that includes the 45th day after the municipality notifies the provider of the amount of any fee and the number of PEG channels provided by the incumbent cable operator. <p>A video service provider shall pay the fee quarterly, not later than 45 days after close of calendar quarter.</p>
Audits and Enforcement	<p>A municipality may view a video service provider's records once in any three-year period.</p> <p>The parties must complete good-faith settlement</p>	<p>A video service provider shall comply with the same auditing requirements that a municipality imposes on the incumbent cable operator or other video service providers.</p>

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	discussions regarding any dispute over the amount of a fee before either party may bring an action regarding the disputed fee.	
Generally Accepted Accounting Principles	Any action regarding a disputed fee must be commenced within four years of the calendar quarter to which the disputed amount relates. All determinations and calculations regarding video service provider fees must be made using generally accepted accounting practices.	Same as AB 207.
Itemization of Fee	A video service provider may itemize the video service provider fee (and the PEG support fee, described below) as a separate line on consumers' bills.	Same as AB 207.
Other Fees Prohibited	If a video service provider pays this fee, the municipality may not require video service provider to pay any compensation or fee for occupation or work in the public rights-of-way, except as described below.	The municipality may not demand any additional fees or charges from a video service provider and may not demand the use of any other calculation method than that specified in the act.
PUBLIC, EDUCATIONAL, AND GOVERNMENT (PEG) CHANNELS		
Requirement and Number of PEG Channels	A video service provider must make PEG channel capacity available to a municipality on the date that a service provider commences service, or the 90 th day after the service provider receives notice of the number of PEG channels provided by the incumbent cable operator, whichever is later.	<p>Not later than 90 days after a request by a municipality or its designee, the video service provider shall:</p> <ul style="list-style-type: none"> • designate the same amount of PEG channel capacity as it had designated for the incumbent cable operator on January 1, 2007; and • retransmit to its subscribers the same number of PEG channels as the incumbent cable operator had retransmitted on January 1, 2007.
		If an incumbent cable operator provided PEG channel capacity prior to the effective date, the video service provider must provide capacity for the same number of channels.

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	If no incumbent provided PEG channel capacity: <ul style="list-style-type: none"> • in a municipality with a population of 50,000 or more, the video service provider must provide capacity for three PEG channels. • in a municipality with a population less than 50,000, the video service provider must provide capacity for two PEG channels. 	If the incumbent provided capacity for fewer than three PEG channels to a municipality on January 1, 2007, the municipality may request capacity for up to three PEG channels.
	If no incumbent provided PEG channel capacity and an interim cable operator or video service provider distributes programming to more than one municipality from a single head end or hub office, the number of required PEG channels is based on the cumulative population of the municipalities served from that head end or hub office.	If the programming on any PEG channel exceeds 40 hours per week, the municipality may request and the video service provider shall provide sufficient capacity for an additional PEG channel.
Change in Number of PEG Channels Based on Usage	If a municipality does not substantially utilize a PEG channel (i.e., provide 40 or more hours of programming each week, at least 60% of which is locally produced), the video service provider may reprogram that channel for other use. A municipality may regain the use of a PEG channel that has been reprogrammed by certifying that it will substantially utilize the channel.	Except as specifically provided, a municipality may not require an interim cable operator or video service provider to provide any funds, services, programming, facilities, or equipment related to PEG channel operation.
Limitation on Municipal Authority		No provision.

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Operation of PEG Channels	<p>It is a municipality's obligation to:</p> <ul style="list-style-type: none"> • operate a PEG channel and produce or obtain the programming. • make all programming available to all operators and providers in a nondiscriminatory manner. 	<p>A municipality is solely responsible for the content of PEG programming and a video service provider may not exercise any editorial control over such programming.</p> <p>A video service provider is not subject to civil or criminal liability for any program carried on a PEG channel.</p>
Signal Format	<p>A municipality must ensure that all programming is submitted to the video service provider in a form the provider can broadcast with no manipulation or modification.</p>	<p>A video service provider must accept programming in the format provided by the PEG channel and must make any necessary format changes for broadcast on its system.</p>
Signal and Channel Quality	No provision.	<p>A video service provider shall provide PEG channel capacity at equivalent visual and audio quality and equivalent functionality, from the viewing perspective of the subscriber, to that of commercial channels carried on the provider's basic tier, without the need for specialized equipment.</p> <p>Each PEG channel shall be capable of carrying a National Television Systems Committee television signal.</p>

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Service Tier, Channel Numbering, and Channel Listings	PEG channels must be broadcast on any service tier that is viewed by more than 50% of customers. If a PEG channel was reprogrammed and later restored, it may be broadcast on any service tier.	A video service provider must broadcast PEG channels on its basic service tier (the tier on which it broadcasts local broadcast television stations). PEG channels must not be separated numerically from other channels and must be given the same channel numbers as those used by the incumbent cable operator.
Transmission of PEG Programming to Provider's Network	For a PEG channel origination point existing on the effective date, an interim cable operator or video service provider must provide sufficient transmission capacity by means it determines to be the most economical and technologically efficient.	A video service provider must provide a listing of PEG channels on channel cards and menus provided to subscribers and on its electronic program guide, if any, in the same manner in which it provides listings of other channels.
Monetary Support of PEG Channel	No provision.	If a municipality relocates a pre-existing origination point, the operator or provider must provide the first 200 feet of transmission line necessary for the connection; the municipality must pay for the cost of construction of the relocated transmission line beyond the first 200 feet, but not for the costs associated with transmission over such line. Any obligation to provide monetary support for a PEG channel under an existing municipal franchise continues until the expiration of the franchise. If an incumbent cable operator terminates a franchise, any obligation under that franchise continues until the

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	original expiration date of the franchise or three years after the effective date, whichever is earlier.	
	A video service provider must provide the same monetary support that is provided by the largest incumbent cable operator.	Essentially the same as AB 207.
Interconnection of Video Service Providers' Networks	If there is more than one interim cable operator or video service provider in a municipality, either may request in connection with the other provider's network. The two parties must negotiate in good faith the terms, rates, and conditions for interconnection. The party requesting interconnection is responsible for the cost of the interconnection.	Only a court of competent jurisdiction may enforce the requirements related to PEG channels. The service provider is not barred from providing service pending resolution of a dispute.
Enforcement	No provision.	
PUBLIC RIGHTS-OF-WAY		
Privilege of Use of Rights-Of-Way	A franchise authorizes video service provider to occupy the public rights-of-way and to construct, operate, maintain, and prepare a video service network to provide video service in the video franchise area.	Substantially similar to AB 207.
Municipal Regulation	Relying on existing law, a municipality may impose reasonable regulations on the occupation and use of public rights-of-way. If a municipality requires a permit, it must act on an application within 60 days of receipt, or the permit is considered to have been approved.	A video service provider is subject to all of the same requirements a municipality may impose on any other entity with regard to the use or occupation of the public rights-of-way. Municipal regulations must provide video service providers with open, comparable, nondiscriminatory, and competitively neutral access to the public rights-of-way.
	A person subject to these regulations may complain to the PSC that a regulation is unreasonable. The bill provides guidance regarding the determination of	

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	reasonableness.	Requirements applicable to video service providers using telecommunications networks shall be the same as those applicable to telecommunications providers; requirements applicable to video service providers using cable systems shall be the same as those applicable to other cable television operators.
		A municipality may impose reasonable terms with regard to the authorization of the placement of facilities in the public rights-of-way, access to a building, or utility pole attachments.
Fees	Municipal regulation of the occupation of public rights-of-way may include reasonable fees. If the fee is cost-based, a video service provider may deduct the amount of the fee from the video service provider fee it pays to the municipality.	A municipality may impose a permit fee on a video service provider only to the extent it imposes such a fee on the incumbent cable operator. In all other cases, a fee may not exceed the actual, direct costs incurred by the municipality relevant to the permit.
Specific Requirements	No provision.	A video service provider shall do all of the following with regard to its use and occupation of the public rights-of-way: <ul style="list-style-type: none"> • locate its equipment so as to cause only minimum interference with other uses of the public rights-of-way; • comply with a municipality's reasonable request regarding the placement of equipment on public property; • use the smallest suitable equipment enclosures, etc.; • perform all construction in compliance with the Occupational Safety and Health Act and appropriate state and local laws; • not interfere with a municipality's

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		<ul style="list-style-type: none"> • performance of public works; • comply with a municipality's inspection requirements; • maintain insurance or provide evidence of self-insurance, as required by the municipality; • reimburse reasonable expenses incurred by the municipality; • indemnify and hold harmless the municipality for all claims, etc., arising out of its work in the public rights-of-way; and • upon request, provide the municipality with information describing the location of its facilities within the public rights-of-way.
Validity or Invalidity of Other Laws	Other existing laws authorizing municipalities to impose fees or requirements on the occupation of public rights-of-way may not be applied to video service providers.	The rights of a video service provider under the Telephone Line Rights-Of-Way Act are not affected by this act.
CONSUMER PROTECTION		
Customer Service Standards	If there is only one video service provider in a municipality, the municipality may require the provider to comply with specified federal cable customer service obligations, but the DFI and municipalities may not impose additional or different customer service standards.	<p>A video service provider must establish general customer service standards, and make the standards available to all customers. The Act provides detailed guidance on the substance of the standards under the following headings:</p> <ul style="list-style-type: none"> • general customer service obligations. • bills, payment, and termination. • response to customer inquiries. • installations, outages, and service calls. • public benefit obligation.
	If there is more than one video service provider in a municipality, or if the provider is subject to "effective competition," these providers may not be subject to any customer service standards, other than the subscriber rights described above and rules of the Department of Agriculture, Trade, and Consumer	The Act contains additional, detailed provisions prohibiting practices such as requiring customers to

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	Protection (DATCP).	purchase more than basic service or to purchase bundled services, establishing various requirements regarding rate structures, and other matters.
Video Service Subscriber Rights	Expands existing cable service subscriber rights to video service providers and satellite video service providers and modifies one of the standards.	Contained, generally, in the customer service standards.
Customer Privacy	In general, extends existing cable service customer privacy regulations to video service providers and satellite video service providers.	Establishes privacy protections similar to those in AB 207.
Applicability	Requirements apply to cable operators, video service providers, and multi-channel video providers, which includes satellite video service providers.	To the extent allowed under federal law, requirements apply to "master antenna television, satellite master antenna television, direct broadcast satellite, multi-point distribution service, and other providers of video programming...." <i>500,000</i>
ACCESS TO SERVICE ("BUILD-OUT") AND DISCRIMINATION		A telecommunications video service provider that serves more than 1,000,000 telecommunications access lines in the state shall provide access to its service as follows:
Access	A large telecommunications video service provider (one that serves at least 500,000 telecommunications access lines in this state) shall provide access to its service as follows:	<ul style="list-style-type: none"> ● provide access to at least 35% of its access lines in the state within three years of receiving a state franchise. ● provide access to at least 50% of its access lines in the state within the later of the following: <ul style="list-style-type: none"> ○ five years after receiving a state franchise. ○ two years after at least 30% of the households with access to the provider's service subscribe to the service for six consecutive months.
		<p><i>250,000</i> <i>500,000</i></p> <p>A telecommunications video service provider that serves 300,000 to 1,000,000 access lines in the state shall provide access to its service as follows:</p> <p><i>5</i></p>

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	<ul style="list-style-type: none"> • provide access to at least 25% of its access lines within three years of receiving a state franchise. • provide access to at least 35% of its access lines in the state within the later of the following: <ul style="list-style-type: none"> ○ five years after receiving a state franchise. ○ two years after at least 15% of the households with access to the provider's service subscribe to the service for six consecutive months. <p><i>(less than 250,000)</i></p> <p>A telecommunications video service provider that serves fewer than 300,000 access lines shall provide access to its service as follows:</p> <ul style="list-style-type: none"> • provide access to at least 35% of its telecommunications access lines in the state within three years of receiving a state franchise. • provide access to at least 50% of its access lines in the state within five years after receiving a state franchise. <ul style="list-style-type: none"> • if the provider is an incumbent cable operator, it shall comply with build-out requirements in its existing municipal franchise. 	<p>The video service provider's obligations described above "shall be distributed, as the [provider] determines, within three different designated market areas."</p> <p>For the largest telecommunications video service providers, if another state in which that provider offers or seeks to offer service imposes more stringent build-out requirements, that state's</p>

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Broadband Internet Service	No provision.	<p>requirements will apply to the provider in Illinois. A video service provider may not terminate or modify its video service area footprint so as to leave an area with no video service from any provider.</p> <p>A telecommunications video service provider that serves more than 1,000,000 telecommunications access lines in the state shall either:</p> <ul style="list-style-type: none"> • provide broadband Internet access to 90% of households. • pay \$15,000,000 to the Digital Divide <i>plus</i> Elimination Infrastructure Fund.
Discrimination	A video service provider may not discriminate on the basis of race or income.	<p>A video service provider may not discriminate on the basis of race or income.</p> <p>It is a defense to an allegation of discrimination on the basis of income if the percentage of households with access to a video service provider's service is as follows:</p> <ul style="list-style-type: none"> • 25% within three years of receiving the state franchise. • 30% within five years of receiving the state franchise. <p>Within three years of receiving a state franchise, 30% of households with access to a telecommunications video service provider's services shall be low-income households. This obligation is "distributed, as the [provider] determines, within three designated market areas...."</p> <p>Compliance is measured by each telecommunications exchange. In each exchange, a telecommunications video service provider must provide access to a percentage of low-income households that is at least equal to the percentage of the total low-income households within that exchange.</p> <p>A video service provider may not terminate or modify its video service area footprint so as to discriminate on the basis of race or income.</p>

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Alternative Technologies	A video service provider may satisfy these requirements through the use of an alternative, comparable technology, other than satellite service.	Same as AB 207.
Extensions and Waivers	<p>A video service provider may apply to the DATCP for an extension of or waiver from these requirements, based on the following factors:</p> <ul style="list-style-type: none"> • inability to obtain access to public and private rights-of-way under reasonable terms and conditions. • developments in buildings that are not subject to competition because of exclusive service arrangements. • developments and buildings that are not accessible using reasonable technical solutions under commercially reasonable terms and conditions. • natural disasters. • other factors beyond the control of the video service provider. 	Substantially similar to AB 207.
Reports	A large telecommunications video service provider shall make annual reports to the DFI regarding its progress in complying with the access requirements.	<p>A video service provider must make annual reports to the ICC regarding its progress in complying with the access requirements. The ICC must make annual reports of this information to the Legislature.</p> <p>Video service providers must make annual reports to the Attorney General, the ICC, and affected municipalities regarding compliance with customer service standards.</p>
Geographic Service Area	Notwithstanding the access and discrimination requirements, a telecommunications video service provider is not required to provide video service outside its residential local exchange service area and	Similar to AB 207.

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	an incumbent cable operator is not required to provide service outside the area in which the operator provided service at the time it obtains a statewide video franchise.	Prohibits any subsidy of Internet services, cable services, or video services by the rates or charges for local exchange telecommunications services, including local services classified as noncompetitive.
SUBSIDIES PROHIBITED	No provision.	The owner of a multiple-unit residential dwelling, or the owner's agent or representative, may not do any of the following: <ul style="list-style-type: none"> • interfere with tenants' ability to receive video service. • demand any form of payment from tenants for access to video service. • penalize any tenant who obtains video service.
INTERFERENCE WITH SERVICE TO TENANTS	No provision.	
LIMITS ON REGULATION	Limits on Regulation by Municipalities	Except as specifically provided, a municipality may not require a video service provider to: <ul style="list-style-type: none"> • construct a video service network. • provide video services. • provide any institutional network. • pay a fee to the municipality. In addition, a municipality may not regulate the rates charged by a video service provider.
Limits on Regulation by the State		Except as specifically provided, the DFI may not do any of the following: <ul style="list-style-type: none"> • promulgate rules interpreting the statutes it implements. • regulate the rates charged by a video service provider.

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Rule-making Limited	<ul style="list-style-type: none"> • require a video service provider to provide any institutional network. <p>The DFI is prohibited from promulgating rules interpreting the statewide video franchise statute except with regard to determining whether a video service provider is legally, financially, and technically qualified to provide video service.</p>	No provision.
LOCAL BROADCAST STATIONS	<p>The DATCP is prohibited from promulgating rules interpreting the discrimination and access provisions.</p> <p>Video service provider must carry local broadcast stations to same extent as required under federal cable television law.</p>	The requirement to carry local broadcast stations is only implied by the definition of "basic cable or video service."
EMERGENCY ALERT SYSTEM	No provision.	A video service provider shall broadcast federal, state, and local emergency messages to the same extent that cable operators are required to do so under federal law and shall comply with any additional requirements that the municipality requires the incumbent cable operator to comply with.
ENFORCEMENT	<p>The DFI may enforce most provisions of the bill except that the DATCP shall enforce provisions relating to discrimination and access.</p> <p>A municipality, interim cable operator, or video service provider affected by a failure to comply with the provisions of the bill may bring an action in the circuit court to compel compliance.</p>	The Attorney General is responsible for administering and enforcing the act, including consumer and privacy protections, and is given the power to investigate and prosecute violations.
PRIVATE ACTIONS	No provision.	Municipalities are authorized to enforce consumer and privacy protections and may establish monetary penalties within specified limits. A video service provider may seek judicial review of an enforcement action by a municipality.
		Any customer, in addition to the Attorney General and municipality, may pursue alleged violations of the Act by video service providers.

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PENALTIES	None.	In general, the penalty for each offense is not more than the greater of \$30,000 or 0.00825% of the video service provider's gross revenues. Each day of offense is a separate violation, except that collective penalties may not exceed \$500,000 per year.
		A video service provider's franchise may be suspended or revoked if it fails to achieve compliance in a reasonable time.
SUNSET	No provision.	October 1, 2013.
DATE OF ENACTMENT	Not enacted.	June 30, 2007.

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